REMARKS

The April 22, 2003 Official Action has been carefully considered. In view of the amendments submitted herewith and these remarks, favorable reconsideration and allowance of this application are respectfully requested.

At the outset, it is noted that a shortened statutory response period of three months was set in the April 22, 2003 Official Action. Accordingly, the initial response period is due to expire July 22, 2003. This Amendment and Request for Reconsideration is being filed before the expiration of the initial response period.

In the April 22, 2003 Official Action, Claims 30, 33 and 34 are deemed objectionable because of the recitation therein of the term "signal genes". The Examiner suggests substituting the term "reporter genes", which suggestion has been adopted in the present claim amendments.

Claim 52 is objected to as being of improper dependent form, as it allegedly fails to further limit the subject matter of a previous claim. This objection is believed to be unfounded for the reasons set forth hereinbelow.

Claim 54 is deemed objectionable because of the recitation of the word "described". The Examiner suggests substitution of the word "shown", for the sake of consistency with Claims 51-53. This suggestion has also been adopted in the present claim amendments.

Turning to the substantive aspects of the April 22, 2003

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Official Action, Claims 53, 55 and 61 stand rejected for allegedly failing to satisfy the written description requirement of 35 U.S.C. §112, first paragraph. Regarding Claim 53, this ground of rejection is rendered moot by the cancellation of Claim 53 in accordance with this amendment. As for Claims 55 and 61, this ground of rejection is inapplicable to these claims as now amended.

All of the currently pending claims, Claims 30, 32-35, 37 and 50-61, have been rejected under 35 U.S.C. §112, second paragraph, for allegedly failing to particularly point out the subject matter which applicants regard as the invention. The specific language that the Examiner considers indefinite is set forth in paragraphs 18-31 of the April 22, 2003 Official Action.

In accordance with the present claim amendments, "molecule" has been inserted after nucleic acid in Claims 30, 32, 54, 55 and 56, as suggested by the Examiner in paragraphs 18, 20, 26, 29 and 31 of the April 22, 2003 Official Action. Claims 30 and 55 have been further amended by inserting "region" after "inducible promoter", as suggested by the Examiner in paragraphs 19 and 30 of the April 22, 2003 Official Action.

Claim 35 has been amended to call for a "method of transforming a host cell comprising introducing the vector of Claim 32 into a host cell". This amendment is in accordance with the Examiner's suggestion in paragraph 21 of the April 22, 2003 Official Action, and thus overcomes the §112, second paragraph rejection of Claim 35.

Claim 51 has been amended to recite "an amino acid" (instead of "the amino acid"), to specify the nucleotide bases

which constitute the ends of the amino acid sequence and to refer to "nucleotide base" rather than "codon", thus overcoming the §112, second paragraph, rejection of Claim 51 set forth in paragraphs 22, 23 and 24 of the April 22, 2003 Official Action.

The §112, second paragraph, rejection of Claim 53 is rendered moot in view of the cancellation of Claim 53 in accordance with this amendment.

Claim 54, as amended, refers to the "nucleotide sequence SEQ ID NO: 1 encoding the *R.corallina oph* operon having the genes shown in Fig. 3". As a result of this amendment, the §112, second paragraph, rejection of Claim 54, as set forth in paragraph 27 of the April 22, 2003 Official Action is believed to be overcome.

Claim 55, like Claim 51, has been amended to refer to "nucleotide base", instead of "codon", thus overcoming the §112, second paragraph, rejection of Claim 55 set forth in paragraph 28 of the April 22, 2003 Official Action.

Applicants respectfully take exception to the Examiner's assertion, in paragraphs 23 and 24 of the April 22, 2003 Official Action, that Fig. 4 does not show codons. It is immediately apparent that for the nucleic acid sequence specified in Claim 51 (i.e. nucleotide base 295 to nucleotide base 1035) Fig. 4 does indeed show codons. Nevertheless, the amendatory language suggested by the Examiner has been adopted in the interest of advancing prosecution of this application to allowance.

The rejection of Claim 35 under 35 U.S.C. §101, based on the recitation of a use without reciting process steps, has been overcome in view of the above-noted amendment of Claim 35.

Finally, with respect to the objection to Claim 52, this claim is properly dependent from Claim 51 and cannot be held objectionable.

Claim 51 relates to <u>any</u> nucleotide sequence which encodes the recited amino acid sequence. The person skilled in the art is aware of the degeneracy of the genetic code, and is aware of the "degenerately equivalent" genus of sequences which this claim encompasses. See e.g. Example 11, Claim 1, of the "Synopsis of Application of the Written Description Guidelines" - which expressly refers to the allowability of claiming such a genus in this fashion.

Claim 52, on the other hand, relates to a <u>single defined</u> nucleotide sequence, which encodes the recited amino acid sequence, i.e. part of SEQ ID NO: 1. Thus, Claim 52 is properly dependent from Claim 51.

In view of the amendments presented herewith and the foregoing remarks, it is respectfully urged that the objections and rejections set forth in the April 22, 2003 Official Action be withdrawn and that this application be passed to issue.

In the event the Examiner is not persuaded as to the allowability of any claim, however, and it appears that any outstanding issue may be resolved through a telephone interview, the Examiner is requested to telephone the undersigned attorney at the phone number given below.

Respectfully submitted,

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